

Award No. 963

Docket No. 898

2-ACL-MA-'43

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee I. L. Sharfman when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

(a) That the vacancy created by the retirement of Willie Hayes, machinist welder, Waycross, Georgia, was improperly and arbitrarily filled by the carrier.

(b) That the carrier be ordered to pay Howard Wilder, machinist, the difference between the amount he has earned and the amount he has been entitled to earn as a welder retroactive to August 31, 1942.

EMPLOYEES' STATEMENT OF FACTS: There is a recognized welding pool at Waycross, Georgia.

The percentage of work performed in the welding pool and accruing to each of the interested crafts has been determined and agreed to by all parties concerned.

All employees working in the welding pool and carried on the welders' seniority roster as of November 11, 1940, were allocated to the respective interested crafts in accordance with the percentage of work agreed to as belonging to each of the crafts involved, and pursuant to the provisions of Rule 17 (b).

Willie Hayes, regularly assigned first shift welder, who retired from the service effective August 1, 1942, had previously been allocated to the machinists' craft.

The retirement of (Machinist) Welder Willie Hayes created the first vacancy to be filled under Rule 17. A bulletin subsequently posted under date of August 24, 1942, advertised vacancy for one machinist welder. Machinist Howard Wilder, regularly assigned to the first shift, locomotive erecting shop, was the only bidder.

On August 29, 1942, bulletin was posted annulling the bulletin of August 24 for machinist welder, and on the same date a third bulletin was posted advertising for one boilermaker welder and one blacksmith welder. A. R. Rigsby, boilermaker, and D. S. Howell, blacksmith, were declared the successful bidders for the respective vacancies. A. R. Rigsby was assigned to the position formerly held by (Machinist) Welder Willie Hayes. D. S. Howell was assigned to the position formerly held by (Blacksmith) Welder W. L. Reynolds, who had in the meanwhile resigned from service.

POSITION OF EMPLOYEES: Autogenous welders at Waycross, Georgia have been carried in a separate classification for many years. This additional classification composed entirely of welders gradually came into existence

Since the negotiation of the above ratio agreement the management has endeavored to follow the ratio when there were any welder vacancies with the understanding that this ratio was effective only from the date of the agreement and did not affect men who were already established as welders without any other classification previous to November, 1940.

Carrier has shown in this submission the craft from which the welders in the pool came, previous to the negotiation of the November, 1940 agreement. It will be noted that a number of the welders originated from the boiler-makers' craft. If the argument put forth by the representatives of the machinists was sound, then if one of the original welders died or retired and his job had to be filled by a member of that craft, then the boiler-makers' craft would always be in a majority in the welding pool and the ratio never could be established.

The carrier, therefore, contends that the claim is not sound, is entirely contrary to the intention of Rule 17, and is an attempt by the representative of the machinists' organization to take something away that rightfully belongs to one of the other crafts.

Machinist William Howard Wilder did not want this welding job on August 1942. He so informed several of the shop foremen, but he was practically forced to put in a bid by the representative of the machinists so that they could establish a claim for the job. Affidavit from General Foreman L. E. Atwell, dated April 27, 1943, is submitted as carrier's Exhibit B. General Foreman Atwell states that Machinist Wilder informed him in August that he did not want any welding work, as he did not know anything about it, but that the machinists' committee wanted him to bid in this welding job.

Affidavit from Erecting Shop Foreman E. L. Spicer, dated April 27, 1943, is submitted as carrier's Exhibit C. Foreman Spicer states that Machinist Wilder in August, 1942, told him that he did not want any welding job, he knew nothing about welding, but that the machinists' committee was trying to persuade him to take the welding job.

Above two affidavits substantiate the fact that the representatives of the machinists were trying to put one of their men on the welding vacancy irrespective of the rights of the other crafts.

Inasmuch as the carrier fully carried out the agreement in filling the vacancies we ask that the Board dismiss this frivolous claim which is motivated by nothing else than the selfishness on the part of the machinists' representatives and the greed to endeavor to grab everything for their own craft without any regard to the rights of any of the other crafts.

Therefore, carrier respectfully requests the National Railroad Adjustment Board to deny this claim.

Carrier reserved the right if and when it is furnished with the petition filed ex parte by the petitioners in this case which it has not seen, to make such further answer and defense as it may deem necessary and proper in relation to all allegations and claims as may have been advanced by the petitioners in such petition and which have not been answered in this its initial answer.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The evidence of record supports the conclusion that the operation of the welding pool at Waycross, as provided for in Rule 17 (b) of the prevailing agreement and as subsequently implemented by the parties, entitled Machinist Howard Wilder to the vacancy created by the retirement of Willie Hayes, who had been assigned to the machinists' quota in the welding pool, and that said Howard Wilder should be paid the difference between the amount he has earned as a machinist and the amount he would have earned as a welder, retroactive to August 31, 1942.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 25th day of October, 1943.